

1 BILL NO. G-92-03-13 (AS AMENDED)

2 GENERAL ORDINANCE NO. G- 16-92

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
AN ORDINANCE PROVIDING
DEFINITIONS OF THE TERMS
"CONFIDENTIAL EMPLOYEE,"
"PROFESSIONAL EMPLOYEE,"
AND "SUPERVISORY EMPLOYEE"
USED IN THE CITY'S
COLLECTIVE BARGAINING
ORDINANCE AND RECOGNIZE
CERTAIN RIGHTS FOR
PROFESSIONAL EMPLOYEES.

WHEREAS, Section 20-16(a) of the City Code provides that the City's collective bargaining ordinance for non-safety employees applies to "all nonconfidential, non-supervisory, and nonexempt employees of the city and its utilities..."; and

WHEREAS, no definitions have been provided for the terms "Confidential Employee," "Exempt Employee," or "Supervisory Employee";

WHEREAS, the City desires to afford its professional employees the same rights available to professional employees under the NLRA; and

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Sections 20-16(a) and 20-16(b) of the City Code are hereby amended to read as follows:

(a) Application: This section shall apply to all non-confidential and non-supervisory employees of the City and its utilities (other than those represented by the PBA, the FOP, and IAFF Local 124 who are subject to a different section). This section shall apply to the City of Fort Wayne and all of its boards, commissions, authorities, divisions and departments. The following definitions shall apply to this section:

(a)(1) "Confidential employee," for the purposes of this section, shall mean an employee:

1 A. who works in the city's personnel
2 office;

3 B. who has access to confidential or
4 discretionary information that may be
5 used by the city in negotiating a
6 collective bargaining agreement under
7 this section;

8 C. who works in a close and continuing
9 working relationship with:

10 (1) an individual holding elective
11 office; or

12 (2) individuals who represent the
13 city in negotiations under this
14 section;

15 D. whose:

16 (1) functional responsibilities; or

17 (2) knowledge;

18 concerning employee relations makes
19 the employee's membership in an
20 employee organization incompatible
21 with the employee's duties; or

22 E. who is the personal secretary of:

23 (1) a division or department head;
24 or

25 (2) an individual holding elected
26 office.

27 (a)(2) "Professional Employee," for the purposes of
28 this section, shall mean any employee engaged in
29 work (i) predominantly intellectual and varied in
30 character as opposed to routine mental, manual,
31 mechanical, or physical work; (ii) involving the
32 consistent exercise of discretion and judgment in
33 its performance; (iii) of such a character that
34 the output produced or the result accomplished
35 cannot be standardized in relation to a given period
36 of time; (iv) requiring knowledge of an advanced
37 type in a field of science or learning customarily
38 acquired by a prolonged course of specialized
39 intellectual instructions and study in an
40 institution of higher learning or a hospital, as
41 distinguished from a general academic education or
42 from an apprenticeship or from training in the
43 performance of routine mental, manual, or physical
44 processes.

45 (a)(3) "Safety Employee" shall mean a member
46 of either the City's Police or Fire Department
47 who is also a member of a police or fire
48 pension fund.

49 (a)(4) "Supervisory Employee," for the purposes
50 of this section, shall mean an individual
51 having authority in the interest of the city,
52 or its utilities, to hire, transfer, suspend,
53 lay off, recall, promote, discharge, assign,
54 reward, or discipline other employees, or
55 responsibility to direct other employees, or to
56 adjust employee grievances, or effectively to

1 recommend such action, if the exercise of the
2 authority is not of a merely routine or
3 clerical nature, but requires the use of
4 independent judgment.

5 (b) Rights of Employees: Non-confidential and non-
6 supervisory City employees shall have the right to
7 bargain collectively with and to be represented by
8 such labor organization or organizations as so
9 selected by a majority of City employees in an
10 appropriate bargaining unit. Professional employees
11 may be included in a bargaining unit containing non-
12 professional employees only if a majority of the
13 professional employees vote to be so included.
14 "Appropriate bargaining unit" shall be defined, for
15 purposes herein, as a group of employees
16 experiencing a commonality of work and job
functions. The Common Council, upon recommendation
of the Mayor, shall classify those positions that
are "confidential," "professional," or
"supervisory." In the event that an employee in
such a position and/or a bargaining agent for the
bargaining unit involved objects to such
classification as recommended by the Mayor, the
Common Council shall refer the dispute for mediation
as provided in Sec. 20-16(h)(3). If the dispute is
not resolved within thirty (30) days after it is
referred to the mediation panel, the Common Council
shall take action thereon which action shall be
final and shall not be subject to grievance or
arbitration.

17 SECTION 2. Any job position currently covered
18 by a collective bargaining agreement that would be
19 considered confidential or supervisory under these
20 definitions shall cease to be part of any bargaining unit
21 upon Common Council approval of such classification, and
22 no union fees shall thereafter be deducted from said
23 employee's paycheck. Professional employees shall cease
24 to be part of any current bargaining unit upon a majority
25 vote of such employees to cease being part of a unit that
26 includes nonprofessional employees.

27 SECTION 3. That this Ordinance shall be in full
28 force and effect from and after its passage and any and
29 all necessary approval by the Mayor and shall apply to all
30 agreements entered into after its effective date.

31 Clitus R Edmonds
32 Council Member

33 APPROVED AS TO FORM
34 AND LEGALITY

35 J. Timothy McCaulay
36 J. Timothy McCaulay

Read the first time in full and on motion by Edmonds,
seconded by Julian, and duly adopted, read the second time by
title and referred to the Committee on Regulation (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Common Council Conference Room 128, City County
Building, Fort Wayne, Indiana, on 19, the o'clock M., E.S.T.
of 1992

DATED: 3-10-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds,
seconded by Julian, and duly adopted, placed on its passage.
PASSED Lost by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
<u>TOTAL VOTES</u>	<u>6</u>	<u>3</u>		
<u>BRADBURY</u>		<u>✓</u>		
<u>EDMONDS</u>		<u>✓</u>		
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>	<u>✓</u>			
<u>LUNSEY</u>	<u>✓</u>			
<u>RAVINE</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>TALARICO</u>		<u>✓</u>		

DATED: 4-14-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION, NO. 4-16-92
on the 14th day of April, 1992

ATTEST:

(SEAL)

Sandra E. Kennedy
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 15th day of April, 1992,
at the hour of 1:30 o'clock P.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 24th day of April,
1992, at the hour of 12:30 o'clock P.M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE PROVIDING
DEFINITIONS OF THE TERMS
"CONFIDENTIAL EMPLOYEE,"
"EXEMPT EMPLOYEE,"
"PROFESSIONAL EMPLOYEE,"
AND "SUPERVISORY EMPLOYEE"
USED IN THE CITY'S
COLLECTIVE BARGAINING
ORDINANCE AND RECOGNIZE
CERTAIN RIGHTS FOR
PROFESSIONAL EMPLOYEES.

WHEREAS, Section 20-16(a) of the City Code
provides that the City's collective bargaining ordinance
for non-safety employees applies to "all nonconfidential,
non-supervisory, and nonexempt employees of the city and
its utilities..."; and

WHEREAS, no definitions have been provided for
the terms "Confidential Employee," "Exempt Employee," or
"Supervisory Employee";

WHEREAS, the City desires to afford its
professional employees the same rights available to
professional employees under the NLRA; and

NOW THEREFORE BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Sections 20-16(a)(1), (a)(2), (a)(3)
and (a)(4) are hereby added to the City Code to read as
follows:

SECTION 1. Sections 20-16(a) and 20-16(b) of
the City Code are hereby amended to read as follows:

(a) Application: This section shall apply to all
non-confidential and non-supervisory employees of
the city and its utilities (other than those
represented by the PBA, the FOP, and IAFF Local 124
who are subject to a different section). This
section shall apply to the City of Fort Wayne and
all of its boards, commissions, authorities,
divisions and departments. The following
definitions shall apply to this section:

(a)(1) "Confidential employee," for the

1 purposes of this section, shall mean an
2 employee:

3 A. who works in the city's personnel
4 office;

5 B. who has access to confidential or
6 discretionary information that may be
7 used by the city in negotiating a
8 collective bargaining agreement under
9 this section;

10 C. who works in a close and continuing
11 working relationship with:

12 (1) an individual holding elective
13 office; or

14 (2) individuals who represent the
15 city in negotiations under this
16 section;

17 D. whose:

18 (1) functional responsibilities; or

19 (2) knowledge;

20 concerning employee relations makes
21 the employee's membership in an
22 employee organization incompatible
23 with the employee's duties; or

24 E. who is the personal secretary of:

25 (1) a division or department head;
26 or

27 (2) an individual holding elected
28 office.

29 (a) (2) "Professional Employee," for the purposes of
30 this section, shall mean any employee engaged in
31 work (i) predominantly intellectual and varied in
32 character as opposed to routine mental, manual,
33 mechanical, or physical work; (ii) involving the
34 consistent exercise of discretion and judgment in
35 its performance; (iii) of such a character that
36 the output produced or the result accomplished
37 cannot be standardized in relation to a given period
38 of time; (iv) requiring knowledge of an advanced
39 type in a field of science or learning customarily
40 acquired by a prolonged course of specialized
41 intellectual instructions and study in an
42 institution of higher learning or a hospital, as
43 distinguished from a general academic education or
44 from an apprenticeship or from training in the
45 performance of routine mental, manual, or physical
46 processes.

47 (a) (2) "Exempt Employee," for the purposes of
48 this section, shall mean an employee for whom
49 the city is not obligated to pay overtime
50 compensation under the Fair Labor Standards Act
51 (FLSA).

52 (a) (3) "Safety Employee" shall mean a member of
53 either the City's Police or Fire Department who is
54 also a member of a police or fire pension fund.

(a)(3) (a)(4) "Supervisory Employee," for the purposes of this section, shall mean an individual having authority in the interest of the city, or its utilities, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct other employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(a) (4) The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "exempt," or "supervisory." Such classification is final and shall not be subject to grievance or arbitration.

(b) Rights of Employees: Non-confidential and non-supervisory City employees shall have the right to bargain collectively with and to be represented by such labor organization or organizations as so selected by a majority of City employees in an appropriate bargaining unit. Professional employees may be included in a bargaining unit containing non-professional employees only if a majority of the professional employees vote to be so included. "Appropriate bargaining unit" shall be defined, for purposes herein, as a group of employees experiencing a commonality of work and job functions. The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "professional," or "supervisory." In the event that an employee in such a position and/or a bargaining agent for the bargaining unit involved objects to such classification as recommended by the Mayor, the Common Council shall refer the dispute for mediation as provided in Sec. 20-16(h)(3). If the dispute is not resolved within thirty (30) days after it is referred to the mediation panel, the Common Council shall take action thereon which action shall be final and shall not be subject to grievance or arbitration.

SECTION 2. Any job position currently covered by a collective bargaining agreement that would be considered confidential, ~~exempt~~ or supervisory under these definitions shall cease to be part of any bargaining unit upon ~~the effective date of this ordinance, Common Council approval of such classification,~~ and no union fees shall thereafter be deducted from said employee's paycheck. Professional employees shall cease to be part of any current bargaining unit upon a majority vote of such employees to cease being part of a unit that includes nonprofessional employees.

SECTION 3. That this Ordinance shall be in full

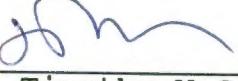
PAGE 4

1 force and effect from and after its passage and any and
2 all necessary approval by the Mayor and shall apply to all
3 agreements entered into after its effective date.

4

5 Council Member

6 APPROVED AS TO FORM
7 AND LEGALITY

8 
9 J. Timothy McCaulay
City Attorney

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

1 GENERAL ORDINANCE NO. G-_____

2
3 AN ORDINANCE PROVIDING
4 DEFINITIONS OF THE TERMS
5 "CONFIDENTIAL EMPLOYEE,"
6 "EXEMPT EMPLOYEE," AND
7 "SUPERVISORY EMPLOYEE" USED
8 IN THE CITY'S COLLECTIVE
9 BARGAINING ORDINANCE

10 WHEREAS, Section 20-16(a) of the City Code
11 provides that the City's collective bargaining ordinance
12 for non-safety employees applies to "all nonconfidential,
13 nonsupervisory, and nonexempt employees of the city and
14 its utilities..."; and

15 WHEREAS, no definitions have been provided for
16 the terms "Confidential Employee," "Exempt Employee," or
17 "Supervisory Employee";

18 NOW THEREFORE BE IT ORDAINED BY THE COMMON
19 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

20 SECTION 1. Sections 20-16(a)(1), (a)(2), (a)(3)
21 and (a)(4) are hereby added to the City Code to read as
22 follows:

23 (a)(1) "Confidential employee," for the
24 purposes of this section, shall mean an
25 employee:

26 A. who works in the city's personnel
27 office;

28 B. who has access to confidential or
29 discretionary information that may be
30 used by the city in negotiating a
31 collective bargaining agreement under
32 this section;

C. who works in a close and continuing
working relationship with:

(1) an individual holding elective
office; or

(2) individuals who represent the
city in negotiations under this
section;

D. whose:

(1) functional responsibilities; or

(2) knowledge;

concerning employee relations makes
the employee's membership in an
employee organization incompatible
with the employee's duties; or

E. who is the personal secretary of:

(1) a division or department head;
or

(2) an individual holding elected office.

(a)(2) "Exempt Employee," for the purposes of this section, shall mean an employee for whom the city is not obligated to pay overtime compensation under the Fair Labor Standards Act (FLSA).

(a) (3) "Supervisory Employee," for the purposes of this section, shall mean an individual having authority in the interest of the city, or its utilities, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct other employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(a) (4) The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "exempt," or "supervisory." Such classification is final and shall not be subject to grievance or arbitration.

SECTION 2. Any job position currently covered by a collective bargaining agreement that would be considered confidential, exempt or supervisory under these definitions shall cease to be part of any bargaining unit upon the effective date of this ordinance, and no union fees shall thereafter be deducted from said employee's paycheck.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and shall apply to all agreements entered into after its effective date.

C R Edmond
Council Member

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay
J. Timothy McCaulay
City Attorney

DIGEST SHEET

TITLE OF ORDINANCE: General Ordinance

DEPARTMENT REQUESTING ORDINANCE: Mayor's Office

SYNOPSIS OF ORDINANCE:

D-92-03-13
Provides definitions for terms used in collective bargaining ordinances.

EFFECT OF PASSAGE: New definitions will apply.

EFFECT OF NON-PASSAGE: Terms will remained undefined.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____